



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

April 3, 2012

IN ATTENDANCE: Stephen Karll, Chairman
Jack Gauthier, Member
Michael Calder, Member

ALSO PRESENT: Michael McGourty, Local Building Inspector
Carolyn Murray, Town Solicitor

Mr. Karll called the meeting to order at 7:00pm.

OLD BUSINESS:

- 1) Petition Number 12-10**
Pam and Robert Cosgrove
RE: 58 Mass Avenue

Present: Robert and Pam Cosgrove, petitioners; and Jim Kantaros, architect.

This is a petition filed by Robert and Pamela Cosgrove regarding the property at 58 Massachusetts Avenue, Braintree, in which the applicants are seeking relief from the Town of Braintree Zoning By-laws Sections 135-403, 407, and 701. The applicants own two adjoining lot that have merged under common ownership for purposes of zoning. The applicants seek a permit, variance and/or finding to construct new front stairs, construct a 950 SF addition that includes a porch and deck on the rear of the current structure, construct a window seat bump-out addition, and to construct three dormers on the roof, all in accordance with the plans of record. The property is located in a Residential B Watershed Zoning District as shown on Assessors Plan No. 1080, Plots 30 and 31 and contains +/-5,414 SF and 10.000 SF of land, respectively.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was scheduled to be held before the Zoning Board of Appeals on March 27, 2012 at 7 p.m. at Braintree Town Hall at 1 JFK Memorial Drive, Braintree, MA but was rescheduled to April 3, 2012. Sitting on this petition were Chairman, Steve Karll, and members Jack Gauthier and Michael Calder.

Evidence

Robert Cosgrove, the property owner, and Jim Kantaros, the architect on this project, presented this petition to the Board, explaining the zoning relief requested. There is a pre-existing, nonconforming single-family dwelling on Lot 30, a corner lot at the intersection of Massachusetts and Arbutus Avenue, which will be altered and expanded as noted below. Lot 31 is currently vacant. Both lots and the dwelling on Lot 30 are pre-existing nonconforming. The existing dwelling encroaches into the Massachusetts Avenue side yard setback. The Zoning By-law requires a side yard setback of 10 feet, while the existing dwelling is located 5 feet off the side yard lot line. This nonconformity ceases with the merger of Lots 30 and 31.

The applicant explained his petition and associated zoning relief as follows:

1. For purposes of zoning, Lot 30, containing 5,414 SF of land has merged with Lot 31, containing 10,000 SF of land, by virtue of both lots being held in common ownership. Both lots are located in a residence b Watershed Protection Overlay District, which requires a minimum lot size of 1 acre, and therefore, both lots are nonconforming as to size. The combined new lot area of 15,414 SF will not comply with the minimum lot size of 1 acre, and therefore, a finding under G.L. Chapter 40A, Section 6 is required for this newly configured undersized lot. Currently, Lot 30 contains only 55 feet of width, while the Zoning By-law requires a minimum lot width of 100 feet. The newly configured lot will have 155 feet of lot width.
2. The applicant proposes to construct new front stairs on the Massachusetts Avenue side of the house, which will result in a front yard setback of only 4.1'. The existing stairway is non-conforming with a front yard setback of 6.5'. The Zoning By-law requires a front yard setback of 20'. Since the existing stairs encroach into the front yard setback and the proposed stairs will further encroach into this same setback, a finding under G.L. Chapter 40A, Section 6 is required for this alteration.
3. The applicant proposes to construct a 594 SF addition, measuring 19 ft. x 38 ft., with an adjoining 19 ft. x 19.5 ft. "L" shaped deck on the rear of the house, and another deck or porch on the Arbutus Avenue side of the property. In total, this addition and decks comprise 950 SF. The proposed addition will result in a rear yard setback of 24.9', while the Zoning By-law requires a rear yard setback of 30 feet. The proposed addition will also encroach into the front yard setback, as it is proposed to be located 18.4' from the Arbutus Avenue lot line; however, the Zoning By-law requires a front yard setback of 20'. The existing dwelling does not encroach into the rear yard setback or the Arbutus Avenue front yard setback. Since the applicant is seeking to alter a pre-existing nonconforming single-family structure, a finding is required under G.L. Chapter 40A, Section 6.
4. The applicant proposes to construct a window seat bump-out addition on the Arbutus Avenue side of the structure that measures 3.3' in depth by 7.3' in width and will be located 18' from the Arbutus Avenue front lot line. The Zoning By-law requires a front yard setback of 20'; however, the applicant is seeking to alter a pre-existing nonconforming single-family structure, and therefore, a finding under G.L. Chapter 40A, Section 6 is required.
5. The applicant proposes to construct three dormers on the roof, one on each side and one in the rear. The dormer on the rear of the roof will be located 28.9' from the rear lot line, whereas the Zoning By-law requires a rear yard setback of 30'. However, the applicant is seeking to alter a pre-existing nonconforming single-family structure, and therefore, a finding under G.L. Chapter 40A, Section 6 is required.

The applicant explained that his family purchased the home in the 1920s, and that he and his wife have been renting the house but plan to move into the house themselves. Due to health and mobility issues, they require that the proposed work be done on the house, primarily to enhance accessibility and to promote mobility and independent living. The addition will consist of a chair lift and dumb waiter near the driveway, a fully accessible first floor bedroom and master bathroom, with a second floor bedroom and art studio. The architect

explained that the renovations are oriented in the direction of the existing driveway for ease of access. The applicant further explained that his neighbors support the proposed work and submitted a statement signed by thirteen neighbors reflecting their support. The architect also noted the sloping topography of the lot, dropping off on the Massachusetts Avenue side of the house; if the addition were to be built on this side of the house, it would be a three-story addition because of the existing grade.

The applicant submitted a plan entitled "Plan to Accompany Special Permit and/or Variance Request, 58 Massachusetts Avenue, Weymouth,¹ MA" dated February 29, 2012, prepared by Hoyt Land Surveying of Weymouth. The applicant also submitted six pages of rendering depicting the renovated dwelling, prepared by their architect, Jim Kantaros.

The Planning Board voted 5-0-0 to recommend favorable action on the requested relief, subject to the plans presented. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the applicant had demonstrated that the existing single-family dwelling was a pre-existing nonconforming structure on an undersized, pre-existing, nonconforming lot. The Board found that combining Lot 30 with Lot 31 will create a newly configured undersized lot, but the lot size will be 15,414 SF with 155 feet of lot width, which is a vast improvement over the existing 5,414 and 10,000 SF lots, with 55 and 100 feet of width, respectively. The Board also found that the applicant had demonstrated the sloping topography on the Massachusetts Avenue side of the lot, rendering a handicapped accessible addition on this side of the dwelling impractical and infeasible. The Board also noted that the pre-existing nonconforming dwelling encroaches into the front and side yard setbacks. Although the altered dwelling will encroach into the rear and front yard setbacks, the Board found that the granting of the requested relief would not be substantially more detrimental to the neighborhood than the existing structure. Further, the Board found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law.

Decision

On a motion made by Mr. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

The property is clearly located in Braintree, but the plan erroneously states Weymouth.

NEW BUSINESS:

2) Petition Number 12-14

Ali Akshia

RE: 349 Liberty Street

Chairman Karll advised the Board a deferral of this request will be granted, as the surveyor for the petitioner is not present.

On a motion made by Mr. Gauthier and seconded by Mr. Calder, the Board voted unanimously to grant a 30-day deferral of this request until April 24, 2012.

3) Petition Number 12-15

Scott Lacey, Sprint Spectrum

RE: 10-40 Plain Street/0 Hancock Avenue

Present: Scott Lacey, with Prince Lobel of Boston, MA

Mr. Gauthier requested that this petition be continued until the Zoning Board of Appeal meeting to be held on April 24, 2012, to provide the Board the opportunity to visit the site location.

On a motion made and seconded, the Board voted unanimously to continue this petition until April 24, 2012.

4) Petition Number 12-16

Barry Hanson

RE: 530 Pond Street

Present: Barry Hanson, petitioner

This is a petition filed by Barry Hanson, P.O. Box 664, South Lancaster, MA 01561 regarding the property at 530 Pond Street, Braintree, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135-402, 403, 407, and 701. The applicant is seeking a permit, variance and/or finding to legitimize an addition that was constructed, but not completed, without the benefit of a building permit or any zoning relief. The applicant also seeks to complete the improvements to the addition, which encroaches into the rear yard setback, all in accordance with the plans of record. The property is located in a Residential B Watershed Zoning District as shown on Assessors Plan No. 1069, Plot 3A and contains +/-18,035 SF of land.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was scheduled to be held before the Zoning Board of Appeals on March 27, 2012 at 7 p.m. at Braintree Town Hall at 1 JFK Memorial Drive, Braintree, MA, but was rescheduled to April 3, 2012. Sitting on this petition were Chairman, Steve Karll, and members Jack Gauthier and Michael Calder.

Evidence

Barry Hanson, the property owner, presented this petition to the Board, explaining that he is seeking to legitimize an addition that was constructed without the benefit of a building permit or any zoning relief in 1985 and which was further improved in 2001. He now seeks permission to complete the improvements, which are three-fourths complete, and legalize the rear yard setback by obtaining a variance. The addition measures 13.9' in depth by 24.1' in width and is located to the east of the main structure. The main structure is located in the upper Northeast corner of the lot with an expansive side and front yard. The lot offers 13.2' of frontage but then widens to 118' at the rear lot line. The addition is located 3.7' from the rear yard lot line. As the Zoning By-law requires a minimum rear yard setback of 30', a variance is required. Prior to the addition being constructed, the existing dwelling was located 17.6 feet from the rear lot line, and was therefore, nonconforming, but it does not appear that any zoning relief was ever granted.

The applicant's lot and existing dwelling are pre-existing, nonconforming. The Residential B Watershed Zoning District requires a minimum lot size of 1 Acre, but this lot contains only +/-18,035 SF. The lot also

lacks the required 50' of frontage, as the lot offers only 13.2' of frontage. Also, the Zoning By-law requires a side yard setback of 10', but the house is located 9.8' from the side lot line. As noted above, the existing dwelling on the site, without the addition, also encroached into the rear yard setback, as the structure is located 17.6 feet from the rear lot line, whereas the Zoning By-laws requires a 30 foot setback. Therefore, the applicant requests a variance.

The applicant explained that he enclosed an existing deck in 2001, but that the foundation had been there previously, since about 1985. The applicant stated that his parents are currently living in the house. He further explained that the abutter's house to the rear of his property is setback about 100' from their adjoin lot line. The applicant's addition only offers 3.7' of rear yard setback and therefore requires a variance. The applicant advised that he was not aware of the exact location of the rear lot line and maintained property to the rear of his for several years before learning that it belonged to his abutter. As grounds for the variance, the applicant noted the irregular shape of the lot, the undersized nature of the lot and the location of the structure on the lot.

In response to questions from the Board, the applicant further explained that currently the addition is used for storage and the first floor is not occupied. In response to questions from the Board, the applicant explained that he would like to complete work to the addition, including installation of heat, electricity and plumbing in order to create a bathroom on the first floor of the addition. The Building Inspector stated that the work in 2001 was done without a permit or variance and that no inspection had been done since they are not able to complete an inspection on a project for which no building permit was issued.

The applicant submitted a plan entitled "Plan of Land Located at 530 Pond Street, Braintree, Massachusetts" dated February 22, 2012, prepared by Massachusetts Survey Consultants of Gloucester, MA. The applicant also submitted five color photographs of the rear yard and the addition.

The Planning Board voted 5-0-0 to recommend favorable action on the requested relief, subject to the plans presented. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the applicant had presented a hardship based on the irregular shape of lot, noting that the lot is "hammer-shaped" with its narrow frontage and expansive middle. The Board also found that the applicant had demonstrated a hardship based on the location of the existing structure, pushed to the far rear of the lot and making it difficult to locate an addition elsewhere. The Board also found that the granting of the requested relief would not be substantially more detrimental to the neighborhood than the existing structure. Further, the Board found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law.

Decision

On a motion made by Mr. Karll and seconded by Mr. Calder, it was unanimously voted to grant the requested relief, subject to the plan presented and with the condition that all permits are obtained from the appropriate Town departments, that permit fees be paid, and that all safety inspections be conducted.

5) Petition Number 12-17
James Bernasconi
RE: 90 Tenney Road

Present: James Bernasconi, petitioner

This is a petition filed by James Bernasconi regarding the property at 90 Tenney Road, Braintree, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135-402, 403, 407, and 701. The applicant is seeking a permit, variance and/or finding to remove the existing one story, one car garage and to construct a one and one half story, two car garage in its place that will violate the rear yard setback requirement, all in accordance with the plans of record. The property is located in a Residential B Zoning District as shown on Assessors Plan No. 1006, Plot 70 and contains +/-11,728 SF of land.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was scheduled to be held before the Zoning Board of Appeals on March 27, 2012 at 7 p.m. at Braintree Town Hall at 1 JFK Memorial Drive, Braintree, MA, but was rescheduled to April 3, 2012. Sitting on this petition were Chairman, Steve Karll, and members Jack Gauthier and Michael Calder.

Evidence

James Bernasconi, the property owner, presented this petition to the Board, explaining that he proposes to remove the existing one story, one car garage and to construct a one and one half story, two car garage in its place located to the southwest of the dwelling. The garage will measure 30' in width by 26' in depth. The current garage is located 8.5' from the rear yard lot line and the new garage will be located 5.3' from the rear yard lot line. The Zoning By-law requires a minimum rear yard setback of 30'. Since the existing garage already encroaches into the rear yard setback and the proposed new garage will further encroach into the same rear yard setback, the applicant seeks a finding pursuant to G.L. Chapter 40A, Section 6.

The applicant's lot and existing dwelling are pre-existing, nonconforming. The Residential B Zoning District requires a minimum lot size of 15,000 SF, but this lot contains only +/-11,728 SF. The lot also lacks the required 100' of depth, as the lot offers only 55' of depth. Also, the Zoning By-law requires a front yard setback of 20', but the house is located 17.8' from the front lot line. As noted above, the existing garage encroaches into the rear yard setback.

The applicant explained that he needs the garage for extra storage space, as the existing dwelling is built on a slab and has no basement, thereby limiting his available storage space. The applicant explained that he explored the possibility of constructing a basement, but learned that he would hit water once he digs four feet into the ground under the house. The applicant plans to line up the back of the house with the back of the garage. The applicant noted the irregular shape of the lot, which is "L" shaped, with the rear of the garage closest to the angle in the L. The applicant represented that his abutters to the rear have no objection to his petition.

The applicant submitted a plan entitled "Plan of Land in Braintree, Massachusetts, 90 Tenney Road" dated February 24, 2012, prepared by C.S. Kelly Land Surveyors of Pembroke. The applicant also submitted three pages of drawings rendering the house and proposed garage.

The Planning Board voted 5-0-0 to recommend favorable action on the requested relief, subject to the plans presented. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the applicant had proven that the existing garage encroaches into the rear yard setback, and the Board found that the proposed enlarged garage would further encroach into the same rear yard setback.

The Board noted the irregular “L” shape of lot and the placement of the existing garage on the lot. The Board found that the granting of the requested relief, to further encroach into the rear yard setback by an additional 3.2 feet would not be substantially more detrimental to the neighborhood than the existing structure’s encroachment of 8.5 feet. Further, the Board found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law.

Decision

On a motion made by Mr. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

6) Petition Number 12-18

Prologis Limited Partnership (formerly AMB Property Limited Partnership)

RE: 40 and 60-80 Campanelli Drive

Present: Attorney Frank Marinelli, representing the petitioner, Greydon Sargent of Prologis and David Kelly of Kelly Engineering Group.

This is a petition filed by Prologis Limited Partnership of 60 State Street, Suite 1200, Boston, MA 02109, regarding the property at 40 and 60-80 Campanelli Drive, Braintree, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135- 403, 407, and 701. The applicant is seeking a permit, variance and/or finding to raze the existing building located at 60-80 Campanelli Drive and to construct in its place, two new smaller buildings, all in accordance with the plans of record. The property is located in a Commercial Watershed Zoning District as shown on Assessors Plan No. 1033, Plots 28 and 31B and contains +/-498,495 SF of land.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was scheduled to be held before the Zoning Board of Appeals on March 27, 2012 at 7 p.m. at Braintree Town Hall at 1 JFK Memorial Drive, Braintree, MA, but was rescheduled to April 3, 2012. Sitting on this petition were Chairman, Steve Karll, and members Jack Gauthier and Michael Calder.

Evidence

Attorney Frank Marinelli, accompanied by Greydon Sargent of Prologis and David Kelly of Kelly Engineering Group, presented the petition to the Board. The petitioner proposes to raze an existing building currently located at 60-80 Campanelli Drive, which consists of approximately 300,000 SF and to construct two smaller buildings. The applicant also proposes to subdivide the lot that currently houses this 300,000 SF building into two lots to be known as Lots 20A and 20B; as the newly subdivided lots comply with the dimensional requirements of the Zoning By-laws, no relief is sought from this Board specific to the creation of these lots. The relief sought of this Board pertains to the building proposed to be constructed on these new lots. In addition, the petitioner proposes to layout a new subdivision roadway, which will impact the building located on Lot 32A, known as 40 Campanelli Drive. The newly configured Lot 32A will conform to zoning requirements, and therefore, no relief is sought from this Board relative to this lot.

With respect to Lot 20A, the petitioner proposes to construct a new building measuring 474’ in width by 160’ in depth by 24’ in height, for a total of 75,840 SF. The proposed building to be located on lot 20A will not fully comply with the Zoning By-laws, and therefore, the applicant requests a variance for each of the nonconformities listed in the tables below:

<i>Lot 20A</i>	Required	Existing	Proposed	Variance
Front Yard Setback	35'	38.3'	30'	5' encroachment
Maximum Lot Coverage	60%	93%	86%	Exceeds by 26%
Minimum Open Space	40%	7%	14%	Lacks 26%
Maximum Building Coverage	25%	63%	36%	Exceeds by 11%
Front Parking Setback	10'	0'	8'	2' encroachment

The building proposed to be located on lot 20B will measure 438' in width by 200' in depth by 32' in height for a total of 87,600 SF. The proposed building to be located on lot 20B will not fully comply with the Zoning By-laws, and therefore, the applicant requests a variance for each of the nonconformities listed in the tables below:

<i>Lot 20B</i>	Required	Existing	Proposed	Variance
Rear Yard Setback	35'	3.7'	3.7'	31.3' encroachment
Maximum Lot Coverage	60%	93%	90%	Exceeds by 30%
Minimum Open Space	40%	7%	10%	Lacks 30%
Maximum Building Coverage	25%	63%	47%	Exceeds by 22%

Following the subdivision roadway layout, the building at Lot 32 A, or 40 Campanelli Drive will not comply with all Zoning By-law requirements and therefore, the applicant requests a variance for each of the nonconformities listed in the tables below:

<i>40 Campanelli Drive/Lot 32A</i>	Required	Existing	Proposed	Variance
Side Yard Setback	20'	.2'	5.2'	14.8' encroachment
Rear Yard Setback	35'	14.8'	14.8'	20.2' encroachment
Building Parking Setback	5'	0'	0'	5' encroachment
Interior Landscaping	5%	<5%	<5%	

The applicant's existing structures are pre-existing, nonconforming, as shown in the tables above. Therefore, the applicant also requests a finding under G.L. Chapter 40A, Section 6 that the proposed alterations are not substantially more detrimental to the neighborhood than the existing buildings.

The applicants further propose to create 242 parking spaces at 60-70 Campanelli Drive, 114 parking spaces at 80 Campanelli Drive and a sheltered parking area at 1 Campanelli Drive. The applicants also propose to have 27 loading docks on the rear of the building at Lot 20A and 27 loading docks on the front of the building at Lot 20B. The off-street parking and loading comply with the Zoning By-law requirements.

The applicant explained that AMB Property Limited Partnership, which has now merged with Prologis, obtained zoning relief from the Board for a similar project in 2010 (See Board Decision #10-08), but the work

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was not done. The applicant also explained that the revised proposal is a further improvement of the overall site. The applicant noted that the proposed redevelopment will result in a significant reduction in building square footage and create two usable, modern buildings that will bring in tenants, as the building at 60-80 Campanelli Drive is not currently occupied. The applicant explained that the cul-de-sac subdivision road would offer a sheltered parking area at 1 Campanelli Drive, a softer turning radius from the main road than currently exists, improve traffic circulation, and generally increase the accessibility of the lots involved. The applicant noted that there will be a fence and vegetation buffer between these properties and the bordering residential property. The applicant noted that the residential property owners, Al and Theresa Augenti, have offered their support of this proposal.

As grounds for the variances, the applicant noted the irregular and unique shape of the lot at 40 Campanelli Drive and the problems with access to the site, as there is currently no defined roadway. The applicant also noted a hardship presented by retrofitting an existing 300,000 SF building on at 60-80 Campanelli Drive; the location of the existing nonconforming structure on the site renders the site incapable of redevelopment without demolishing the structure. Attorney Marinelli stated that the proposed alteration of this site will not be more detrimental to the neighborhood because the two smaller buildings represent a decrease of 99,000SF of building, an increase in open space, better site circulation, and a softer turning radius into the site.

The applicant submitted a plan entitled "Prologis, #40 & #60-80 Campanelli Drive, Braintree, MA, Layout Plan (After Subdivision and Building Reconfiguration)" dated January 15, 2010 and revised February 22, 2012 and March 19, 2012, prepared by Kelly Engineering Group, Inc. of Braintree, MA. The applicant also submitted four pages of color renderings of the work titled, "Proposed Elevations, #60-70 Campanelli Drive, Braintree, MA", "Distribution Center, #80 & #60-70 Campanelli Drive, Braintree, MA", "Proposed Elevations, #80 Campanelli Drive, Braintree, MA" and "Overall Park Plan, Industrial Park, Braintree, MA", all dated March 22, 2012 and prepared by RKB architects.

The Planning Board voted 5-0-0 to recommend favorable action on the requested relief, subject to the plans presented. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the applicant had presented a hardship based on the irregular shape of lot and the location of the existing structures on the lot. The Board noted that the proposed alteration improves several of the existing nonconformities with the Zoning By-laws. Therefore, the Board found that the granting of the requested relief would not be substantially more detrimental to the neighborhood than the existing structure. Further, the Board found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law.

Decision

On a motion made by Mr. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

7) Petition Number 12-19
James Harrington
RE: 20 Sumner Avenue

Present: James Harrington, petitioner

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This is a petition filed by James Harrington regarding the property at 20 Sumner Avenue, Braintree, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135-402, 403, 407, and 701. The applicant is seeking a permit, variance and/or finding to construct a farmer's porch that will violate the front yard setback requirement, all in accordance with the plans of record. The property is located in a Residential B Watershed Zoning District as shown on Assessors Plan No. 1019, Plot 64 and contains +/-8,636 SF of land.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was scheduled to be held before the Zoning Board of Appeals on March 27, 2012 at 7 p.m. at Braintree Town Hall at 1 JFK Memorial Drive, Braintree, MA, but was rescheduled to April 3, 2012. Sitting on this petition were Chairman, Steve Karll, and members Jack Gauthier and Michael Calder.

Evidence

James Harrington, the property owner, presented this petition to the Board, explaining that he proposes to construct a farmer's porch spanning the front side of his house located at 20 Sumner Street, Braintree. The porch will measure 65' in width by 5' 8 1/2" in depth at the shallowest point to 7' 1/2" at the deepest point. The house is currently located 23.91' off the front yard lot line. The porch addition is proposed at 18.26' off the front yard lot line, and will therefore encroach into the front yard setback. This lot is located on a corner lot at the intersection of Sumner Avenue and Elmwood Avenue.

The applicant's lot and existing dwelling are pre-existing, nonconforming. The Residential Watershed B Zoning District requires a minimum lot size of 1 Acre, but this lot contains only +/-8,636 SF. The lot also lacks the required 100' of depth, as the lot offers only 61' of depth. Also, the Zoning By-law requires a rear yard setback of 30', but the house is located 17.5' from the rear lot line. The existing dwelling conforms to the front yard setback of 20 feet required by the Zoning By-laws, however, the proposed porch will encroach into the front yard setback. Since the applicant is altering a pre-existing nonconforming single-family dwelling, a finding under G.L. Chapter 40A, Section 6 is required.

The applicant explained that he has lived in the neighborhood since 1991. He also explained that he is friendly with his neighbors, has spoken to them about the porch addition and that they approve of the proposed work.

The applicant submitted two plans, one entitled "Proposed Farmers Porch Addition in Braintree, Mass Owned by James & Angela Harrington" dated October 28, 2011, prepared by C.W. Garvey Co., Inc. Surveyors and Engineers of Whitman, MA, and another plan entitled "Harrington Residence, 20 Sumner Avenue Braintree, Ma., Proposed Farmer Porch, Proposed Additions" dated October 12, 2011, prepared by Level Nine Design of Bellingham, MA. The applicant also submitted a color, digital rendering of the house with the proposed porch.

The Planning Board voted 5-0-0 to recommend favorable action on the requested relief, subject to the plans presented. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the applicant had demonstrated that the existing single-family dwelling was a pre-existing nonconforming structure on the lot, as the dwelling encroaches into the rear yard setback. While the proposed farmer's porch will encroach into the front yard setback, the Board found that the encroachment into the front yard setback by 1.74' is de minimis. The Board found that the granting of the requested relief would not be substantially more detrimental to the neighborhood than the existing structure. Further, the Board found that

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the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law.

Decision

On a motion made by Mr. Gauthier and seconded by Mr. Calder, it was unanimously voted to grant the requested relief, subject to the plan presented.

APPROVAL OF MINUTES:

On a motion made by Mr. Karll and seconded by Mr. Gauthier, the Board voted unanimously to accept the meeting minutes of February 28, 2012.

The Board adjourned the meeting at 8:50pm.